## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

Linda Ann Tyler, # 248190;	) C/A No. 8:05-2662-CMC-BHH
Plaintiff,	)
v.	OPINION AND ORDER
Sergeant Michelle Carter; Sergeant	)
L. D. Rogers; Officer S. Hawthrone;	
Mr. David Turner (DHO); Major A.	)
Rowski; Cpt. E. F. McKenney; Dianthia	
Litwer, Grievance Coordinator;	)
Hearing Officer,	)
,	)
Defendants.	)
	)

This action was brought by a *pro se* state prisoner who is seeking relief pursuant to 42 U.S.C. § 1983. In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge Bruce H. Hendricks.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." (quoting Fed. R. Civ. P. 72 advisory committee's note).

Based on her review of the record, the Magistrate Judge has recommended that this action

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be dismissed without prejudice because Plaintiff has already "struck out" under the so-called "three strikes" rule of the Prison Litigation Reform Act (PLRA), now codified as 28 U.S.C. § 1915(g). The court advised Plaintiff of the procedures and the importance of filing any objections to the Report and Recommendation. In response, Plaintiff filed a motion to dismiss with prejudice—in effect, consenting to the dismissal.

After reviewing the complaint, the motion, the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

Therefore, this action is **DISMISSED** without prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie CAMERON MCGOWAN CURRIE UNITED STATES DISTRICT JUDGE

Columbia, South Carolina October 20, 2005